

§ 970.13

24 CFR Ch. IX (4-1-21 Edition)

(11) Any additional items necessary to respond fully to the PHA's terms of sale;

(12) A resolution from the resident organization approving the proposal; and

(13) A proposed date of settlement, generally not to exceed 6 months from the date of PHA approval of the proposal, or such period as the PHA may determine to be reasonable.

(j) *PHA obligations.* The PHA must:

(1) Prepare and distribute the initial notice of sale pursuant to 24 CFR 970.11(a), and, if any established eligible organization expresses an interest, any further documents necessary to enable the organization or organizations to make an offer to purchase;

(2) Evaluate proposals received, make the selection based on the considerations set forth in paragraph (b) of this section, and issue letters of acceptance or rejection;

(3) Prepare certifications, where appropriate, as provided in paragraph (k) of this section;

(4) Comply with its obligations under § 970.7(a) regarding tenant consultation and provide evidence to HUD that the PHA has met those obligations. The PHA shall not act in an arbitrary manner and shall give full and fair consideration to any offer from a qualified resident management corporation, resident council of the affected development, or a nonprofit organization acting on behalf of the residents, and shall accept the proposal if the proposal meets the terms of sale.

(k) *PHA post-offer requirements.* After the resident offer, if any, is made, the PHA shall:

(1) Submit its disposition application to HUD in accordance with section 18 of the Act and this part. The disposition application must include complete documentation that the resident offer provisions of this part have been met. This documentation shall include:

(i) A copy of the signed and dated PHA notification letter(s) to each established eligible organization informing them of the PHA's intention to submit an application for disposition, the organization's right to purchase the property to be disposed of; and

(ii) The responses from each organization.

(2)(i) If the PHA accepts the proposal of an established eligible organization, the PHA shall submit revisions to its disposition application to HUD in accordance with section 18 of the Act and this part reflecting the arrangement with the resident organization, with appropriate justification for a negotiated sale and for sale at less than fair market value, if applicable.

(ii) If the PHA rejects the proposal of the resident organization, the resident organization may appeal as provided in paragraph (h) of this section. Once the appeal is resolved, or, if there is no appeal, and the 30 days allowed for appeal has passed, HUD shall proceed to approve or disapprove the application.

(3) HUD will not process an application for disposition unless the PHA provides HUD with one of the following:

(i) An official board resolution or its equivalent from each established eligible organization stating that such organization has received the PHA offer, and that it understands the offer and waives its opportunity to purchase the project, or portion of the project, covered by the disposition application;

(ii) A certification from the executive director or board of commissioners of the PHA that the 30-day time frame to express interest has expired and no response was received to its offer; or

(iii) A certification from the executive director or board of commissioners of the PHA with supporting documentation that the offer was otherwise rejected.

§ 970.13 Environmental review requirements.

(a) Activities under this part (including de minimis demolition pursuant to § 970.27) are subject to HUD environmental regulations in 24 CFR part 58. However, HUD may make a finding in accordance with 24 CFR 58.11(d) of this title and may itself perform the environmental review under the provisions of 24 CFR part 50 if a PHA objects in writing to the responsible entity performing the review under 24 CFR part 58.

(b) The environmental review is limited to the demolition or disposition action and any known re-use, and is not required for any unknown future

re-use. Factors that indicate that the future site reuse can reasonably be considered to be known include the following:

(1) Private, Federal, state, or local funding for the site reuse has been committed;

(2) A grant application involving the site has been filed with the Federal government or a state or local unit of government;

(3) The Federal government or a state or unit of local government has made a commitment to take an action, including a physical action, that will facilitate a particular reuse of the site; and

(4) Architectural, engineering, or design plans for the reuse exist that go beyond preliminary stages.

(c) In the case of a demolition or disposition made necessary by a disaster that the President has declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*, or a disaster that has been declared under state law by the officer or entity with legal authority to make such declaration, pursuant to 24 CFR 50.43 and 24 CFR 58.33, the provisions of 40 CFR 1506.11 will apply.

§ 970.15 Specific criteria for HUD approval of demolition requests.

(a) In addition to other applicable requirements of this part, HUD will approve an application for demolition upon the PHA's certification that it meets the following statutory criteria, unless the application meets the criteria for disapproval under 24 CFR 970.29. An application for the demolition of all or a portion of a public housing project must certify that the project:

(1) Is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes, and no reasonable program of modifications is cost-effective to return the public housing project or portion of the project to useful life; and

(2) In the case of an application for demolition of a portion of a project, the demolition will help to ensure the viability of the remaining portion of the project.

(b) As to paragraph (a)(1) of this section:

(1) Major problems indicative of obsolescence are:

(i) As to physical condition: Structural deficiencies that cannot be corrected in a cost-effective manner (settlement of earth below the building caused by inadequate structural fills, faulty structural design, or settlement of floors), or other design or site problems (severe erosion or flooding);

(ii) As to location: physical deterioration of the neighborhood; change from residential to industrial or commercial development; or environmental conditions as determined by HUD environmental review in accord with 24 CFR part 50, which jeopardize the suitability of the site or a portion of the site and its housing structures for residential use; or

(iii) There are other factors that have seriously affected the marketability, usefulness, or management of the property.

(2) HUD generally shall not consider a program of modifications to be cost-effective if the costs of such program exceed 62.5 percent of total development cost (TDC) for elevator structures and 57.14 percent of TDC for all other types of structures in effect at the time the application is submitted to HUD.

(c) As to paragraph (a)(2) of this section, a partial demolition will be considered to ensure the viability of the remaining portion if the application certifies that the demolition will reduce development density to permit better access by emergency, fire, or rescue services, or improve marketability by reducing the density to that of the neighborhood or other developments in the PHA's inventory.

[71 FR 62362, Oct. 24, 2006, as amended at 73 FR 3868, Jan. 23, 2008]

§ 970.17 Specific criteria for HUD approval of disposition requests.

In addition to other applicable requirements of this part, HUD will approve a request for disposition by sale or other transfer of a public housing project or other real property if the PHA certifies that the retention of the property is not in the best interests of the residents or the PHA for at least